

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 15, 2003

RE: MDR Tracking #: M2-03-1315-01

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Physical Medicine/Rehabilitation and Electrodiagnostic Medicine physician reviewer who is board certified in Physical Medicine/Rehabilitation and Electrodiagnostic Medicine. The Physical Medicine/Rehabilitation and Electrodiagnostic Medicine physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 60-year-old female sustained an occupational slip and fall lower back injury and right knee injury on ___. She also reports associated right lower extremity radicular pain and "numbness." The patient underwent a right knee MRI scan on August 5, 1999, demonstrating a degenerative tear of the posterior horn-medial meniscus moderate DJD of all three compartments and chondromalacia. She subsequently underwent right knee arthroscopic surgery on December 1, 1999, by ___. This was followed by right knee replacement on September 25, 2003.

She continued to experience associated lower back pain and on March 13, 2000, she underwent lower extremity electrodiagnostic studies by ___, reportedly demonstrating no conclusive evidence of a lumbo-sacral radiculopathy. However, there is evidence of ongoing and chronic nerve root irritation. The electromyographer does not specify an atomic level for the lumbar paraspinal needle electromyogram abnormalities. On March 14, 2000, the patient had a lumbar MRI scan demonstrating multilevel degenerative disc disease, and a posterior/lateral L5-S1 disc protrusion. The patient came under the care of ___, as of June 12, 2000. He continued conservative measures. Because of failure to progress, a second lower extremity electrodiagnostic study was ordered. However, there is a discrepancy in the date and results.

As of the June 7, 2001, neurosurgical follow-up note of ___, he reports a January 8, 2001, lower extremity electrodiagnostic study demonstrating bilateral S1 radiculopathy by H-reflex determination and DSEP study demonstrating a left L4 radiculopathy and normal electromyogram – presumably this is a needle electromyogram study. The other, second electrodiagnostic study is noted in the formal impairment rating of May 28, 2003, by ___, in which he refers to an April 4, 2001, electrodiagnostic study by ___, demonstrating a mild, peripheral neuropathy of a demyelinating type without evidence of radiculopathy. ___ is requesting a third electrodiagnostic study because the patient is complaining of low back pain, bilateral lower extremity pain and worsening of “numbness and tingling” in bilateral lower extremities. According to the letter of medical necessity authored by ___, dated May 7, 2003, the requested third lower extremity electrodiagnostic study is due to an increased degree of radicular symptoms.

Requested Service(s)

Repeat EMG/NCV (Electrodiagnostic studies) of bilateral lower extremities regarding the above-mentioned injured worker.

Decision

I agree with the insurance carrier that the repeat EMG/NCV of bilateral lower extremities (third electrodiagnostic study) is not medically necessary or reasonable.

Rationale/Basis for Decision

The third lower extremity electrodiagnostic study is not medically necessary or reasonable because the prior electrodiagnostic studies did not conclusively demonstrate electrodiagnostic evidence of a lower extremity radiculopathy, and despite the increased degree of subjective complaints by the injured worker, there is no associated increased degree of objective lower extremity neurological deficit to justify the third lower extremity EMG/NCV study of bilateral lower extremities.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) days of your receipt of this decision (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for hearing should be sent to: Chief Clerk of Proceedings, Texas

Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 78704-0012. **A copy of this decision should be attached to the request.**

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute (Commission Rule 133.308 (t)(2)).

This decision by the IRO is deemed to be a TWCC decision and order.